THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.16171 OF 2007

Dated: 06-08-2007

Between :

Mannepalli Veera Venkata Satyanarayana … Petitioner

And

The Director of Mines & Geology, Hyderabad,
A.P., and others. ..Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.16171 OF 2007

ORDER :

This writ petition is filed seeking a declaration that the order of the 3rd respondent – Assistant Director of Mines & Geology dated 24-7-2007 thereby changing the ramp point in respect of the Sand Quarry Reach No.3 of AGRB in Godavari River as arbitrary and illegal.

As could be seen from the material on record, the 3rd respondent issued a public auction notice dated 11-5-2007 inviting sealed tenders for grant of the lease of sand quarry under A.P. Minor Mineral concession Rules, 1966 for a period of 2 years in respect of Reach No.3 (Tadipudi). In the auction notice, the Ramp point was shown as 28.5 - 28.7 KM. It is not in dispute that the auction was knocked down in favour of the fourth respondent society. Accordingly a lease deed was executed in its favour and the work order was issued vide proceedings dated 14-6-2007 showing the ramp point as 28.5 km – 28.7 km. While so, the impugned order dated 24-7-2007 came to be passed changing the ramp point to 27.4 – 27.6 km instead of Km 28.5 – 28.7 mentioned in the auction notice as well as the work order. A perusal of the said order shows that the fourth respondent society made an application dated 26-5-2007 stating that the ramp point fixed at 28.5 to 28.7 KM is not suitable and therefore the same may be changed. Pursuant thereto, the Executive Engineer, Godavari Head Works Division (GHWD) submitted his remarks vide letter dated 25-6-2007 stating that the existing ramp is eroded and recommending to

permit the lessee to quarry the sand through the proposed ramp location between 27.4 to 27.6 of AGRB. However, since the adjacent leaseholders in Reach No.4 raised objections for change of ramp point, the 3rd respondent inspected the area on 3-7-2007 and found that the distance between the proposed ramp and the ramp point of the adjacent reach is 1.80 Kms. He also found that the existing ramp is not suitable for lifting the sand from boats to stop point. Accordingly, he submitted a report to the Zonal Joint Director and on the basis of the same the 3rd respondent was directed to obtain necessary clearance with the approval of the District Level Committee. Thereafter, the Executive Engineer, GHWD vide letter dated 11-7-2007 gave clearance to accord permission to change the ramp point. The said facts were brought to the notice of the District Level Committee for sand auctions and on 12-7-2007 the Committee headed by the Joint Collector, West Godavari District passed a resolution deciding to change the ramp point from 28/5 - 28/7 KM to 27/4 – 27/6 KM. Pursuant thereto, the impugned order was passed permitting the 4th respondent society to work in the ramp point from 27/4 – 27/6 KM instead of 28/5 – 28/7 KM mentioned in the work order subject to the condition that the damaged banks are restored to the standards.

The said order dated 24-7-2007 is challenged in this writ petition by the petitioner who claims that though he was interested in participating in the public auction for grant of lease in Reach No.3, did not do so since the ramp point was not suitable. It is also claimed that in spite of his specific request, the 3rd respondent refused to change the ramp point at the time of the auction. It is alleged that subsequently having come to know that the respondents are contemplating to change the ramp point on a request made by the 4th respondent society, he made a representation dated 29-6-2007 to the respondents 2 and 3 offering a sum of Rs.8 lakhs as lease amount if the ramp point

is changed to KM 27.4 to 27.6. However without considering his offer to pay a sum of Rs.8 lakhs as against the bid amount of Rs.4 lakhs received from the fourth respondent, the impugned order has been passed permitting the 4th respondent to change the ramp point.

The learned Counsel for the petitioner contended that there is absolutely no justifiable reason to ignore the offer made by the petitioner to deposit Rs.8 lakhs as against the bid amount of Rs.4 lakhs paid by the fourth respondent. While submitting that had the auction been conducted fixing the ramp point between KM 27.4 to 27.6, it would have fetched much higher amount, the learned Counsel contended that the impugned order which was passed only to favour the 4th respondent is arbitrary, illegal and consequently the entire auction is liable to be set aside and fresh auction should be conducted notifying the changed ramp point. It is to be noted that as per Rule 9-N of the Andhra Pradesh Minor Mineral Concession Rules, 1966 as amended by G.O.Ms.No.84, Industries & Commerce (M1) Department, dated 10-4-2007, the lessee should make use of authorized ramps and paths only for transportation of sand from the quarry and shall not open any new ramps or paths. However, power is conferred on the Assistant Director of Mines & Geology to permit new ramps with the consent of the concerned Mandal Revenue Officer in case of Government land and River Conservator where the River Conservation Act applies and in case of patta lands with the consent of Pattadar duly verifying the claim supported by the certification issued by the Mandal Revenue Officer concerned. Hence, the power exercised by the 3rd respondent permitting the change in the ramp point cannot be said to be without authority.

So far as the other allegations are concerned, as noticed above, the impugned order was passed after calling for the technical reports of all the concerned officials with regard to the suitability of the ramp mentioned in the auction notice and after considering the objections of the lessees of the adjacent reach. The impugned order also shows

that the 3rd respondent had personally inspected the area and found that the existing ramp point is not suitable.

Admittedly, the petitioner did not participate in the auction. In the circumstances, merely because the petitioner is now ready and willing to deposit higher amounts, the lease in favour of the 4th respondent cannot be set aside.

As expressed above, neither the auction conducted pursuant to the auction notice dated 11-5-2007 nor the impugned order dated 24-7-2007 can be held to be contrary to the Statutory provisions. The allegation that the respondents 2 and 3 colluded with the 4th respondent for unlawful gain, in the absence of any material to substantiate the same, cannot be accepted and no Mandamus can be issued on that ground to conduct a fresh auction.

The judgment of the Division Bench in W.A.2156 of 2005 dated 20-2-2006 cited by the learned counsel for the petitioner in which a direction was issued to hold a fresh auction in the particular facts and circumstances of the said case is not applicable to the controversy raised in the instant case.

For the aforesaid reasons, the Writ Petition is devoid of any merit and the same is accordingly dismissed. No costs.

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G. ROHINI, J.

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Dt. 06–8-2007
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